



# STATE OF MINNESOTA

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January 4, 1999

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FCC MAIL ROOM

Ms. Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 - 12th Street S.W.  
TW-A325  
Washington, D.C. 20554

Re: In the Matter of GTE Telephone Operating Companies,  
GTOC Tariff No. 1 and GTOC Transmittal No. 1148  
CC Docket No. 98-79

Dear Ms. Salas:

Enclosed for filing with your office please find the original and nine copies of the Comments of the Minnesota Department of Public Service; Minnesota Public Utilities Commission; and Minnesota Attorney General, Residential Utilities Division in connection with the above-referenced matter. Also enclosed is our certificate of service.

Sincerely,

JEANNIE SU  
Assistant Attorney General

(651) 296-5671 (Voice)  
(651) 296-1410 (TTY)

JS:kkw

Enclosures

AG:144738 v1

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

GTE Telephone Operating Companies  
GTOC Tariff No. 1  
GTOC Transmittal No. 1148

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CC Docket No. 98-79

**COMMENTS OF THE  
MINNESOTA DEPARTMENT OF PUBLIC SERVICE;  
MINNESOTA PUBLIC UTILITIES COMMISSION;  
MINNESOTA ATTORNEY GENERAL,  
RESIDENTIAL UTILITIES DIVISION**

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MINNESOTA PUBLIC UTILITIES  
COMMISSION;  
MINNESOTA ATTORNEY GENERAL,  
RESIDENTIAL UTILITIES DIVISION

January 4, 1999

On November 30, 1998, the National Association of Regulatory Utility Commissioners (NARUC) and MCI/WorldCom filed petitions for reconsideration of several aspects of the GTE DSL Order.<sup>1</sup> The Minnesota Department Of Public Service, the Minnesota Public Utilities Commission, and the Minnesota Attorney General, Residential Utilities Division support NARUC's request that the Commission clarify that the GTE DSL Order does not preclude states from requiring intrastate tariffs of digital subscriber line (DSL) services designed to connect end-users to Internet Service Providers (ISPs). The Commission should allow state agencies to aid it in enforcing the pro-competitive policies of the Telecommunications Act of 1996. The Commission should not cripple state agencies' ability to require that DSL service be provided on a fair and nondiscriminatory basis.

State agencies should be able to impose requirements not inconsistent with those in the federal tariff where necessary to advance competition in the advanced services and information services markets in their specific states. State regulatory and enforcement agencies are in the best position to gather information concerning the unique competitive environment in their particular states and to evaluate what actions may be necessary to advance competition.

Moreover, because state regulators are frequently the primary enforcers of fair market behavior, they must have the authority to intervene if they observe discriminatory and anticompetitive conduct. A current example of state enforcement of fair market behavior is a joint complaint (Complaint) filed with the Minnesota Public Utilities Commission by the Minnesota Department of Public Service and the Minnesota Office of the Attorney General, Residential Utilities Division. The Complaint alleges that U S WEST has provisioned its DSL service in Minnesota in a discriminatory manner by giving its own ISP affiliate preferential treatment over competing independent ISPs. According to the Complaint, U S WEST processed orders and provisioned facilities necessary for its DSL service for its own ISP affiliate more

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<sup>1</sup> GTE Tel. Operating Cos., GTOC Tariff No. 1, GTOC Transmittal No. 1148, CC Docket No. 98-79, FCC 28-292, Memorandum Opinion and Order (rel. Oct. 30, 1998) (GTE DSL Order).

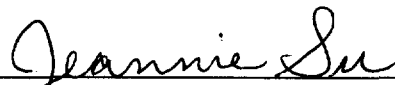
quickly than for unaffiliated ISPs. The Complaint further alleges that U S WEST timed its promotion for its DSL service so that, for the most part, only U S WEST's ISP affiliate and that affiliate's end-user customers could take advantage of the promotion. The Complaint also alleges that U S WEST's business office practices provided U S WEST's ISP affiliate with a marketing advantage over competing ISPs. The Complaint alleges that, as a result of U S WEST's anticompetitive actions, independent ISPs have experienced significant difficulties in offering service to customers who ordered U S WEST's DSL service.

This kind of complaint is more efficiently brought and evaluated at the state rather than the federal level. Because state agencies focus on local problems, they can generally respond more quickly to local complaints. In addition, limiting state authority over DSL service may effectively eliminate access to relief for many small businesses. Many of the competitors to U S WEST's ISP affiliate are small, local ISPs. If U S WEST was not required to file a Minnesota DSL service tariff, it is likely that no governmental body would resolve the disputes over U S WEST's provision of DSL service, since small, local ISPs are more likely to inform local regulators than federal regulators of unfair and illegal competitive practices. Small firms are less likely to have the inclination or resources to file a complaint at the federal level. While large companies have a presence among federal agencies, small companies are likely to see Washington, DC as too far away and too unlikely to take timely action in response to their pressing concerns. The Commission should consider the negative impact of its ruling upon these

small businesses. Thus, the Commission should clarify that the GTE DSL Order does not preclude states from requiring intrastate tariffs of DSL services designed to connect end-users to ISPs.

Dated: 1-4-99

MIKE HATCH  
Attorney General  
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AG:170943 v1

## CERTIFICATE OF SERVICE

I, Jeannie Su, hereby certify that on this 4th day of January, 1999, I caused copies of the foregoing **Comments of the Minnesota Department of Public Service; Minnesota Public Utilities Commission; and Minnesota Attorney General, Residential Utilities Division** to be served via federal express and/or U.S. Mail upon those persons listed below.

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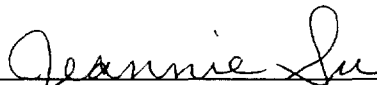
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\_\_\_\_\_  
JEANNIE SU

Subscribed and sworn to before me  
this 4th day of January 1999.

  
\_\_\_\_\_  
Notary Public

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